

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUIS MARQUEZ-RUBIO,

Defendant.

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8:07CR392

ORDER

This matter is before the court on the defendant's Motion to Continue Trial [48] due to "newly discovered evidence" reviewed by defense counsel on May 8, 2008.

The court file shows that this matter was originally set to be tried on January 29, 2008. At the defendant's request, trial was continued to March 25, 2008; however, on February 11, 2008, the defendant filed a motion to suppress. Although that motion was filed approximately 45 days out of time, a suppression hearing was set for February 27, 2008. At the defendant's request, the suppression hearing was continued to March 18, 2008. At the government's request, the suppression hearing was further continued to April 18, 2008, in light of plea negotiations. On May 15, 2008, however, the defendant withdrew the motion to suppress. With no motions pending, all deadlines having expired, and no reports that a plea agreement had been reached, trial was set for May 20, 2008.

Defendant's motion does not disclose the nature of the "newly discovered evidence" or exactly when the "newly discovered evidence" was supplied to defense counsel by the U.S. Attorney's Office. Nor has the defendant complied with the requirements of NECrimR 12.1 and/or 12.3, which require him to file an affidavit or declaration regarding speedy trial when requesting a continuance of this nature. The court finds that the defendant has not shown good cause for another continuance.

IT IS ORDERED that the Motion to Continue Trial [27] is denied. Pursuant to NECrimR 57.2, a party may appeal this order by filing an "Appeal of Magistrate Judge's Order" within ten (10) business days.

DATED January 22, 2008.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**